

MINUTES

CARBONDALE PLANNING AND ZONING COMMISSION

Thursday December 12, 2019

Commissioners Present:

Michael Durant, Chair
Ken Harrington, Vice-Chair
Nick Miscione
Jay Engstrom
Marina Skiles
Nicholas DiFrank (1st Alternate)

Staff Present:

Janet Buck, Planning Director
John Leybourne, Planner

Commissioners Absent:

Jade Wimberley
Jeff Davlyn

Other Persons Present

The meeting was called to order at 7:00 p.m. by Michael Durant.

November 14, 2019 Minutes:

Nick made a motion to approve the November 14, 2019 minutes. Ken seconded the motion and they were approved unanimously with Marina abstaining.

Public Comment – Persons Present Not on the Agenda

There were no persons present to speak on a non-agenda item.

PUBLIC HEARING – Minor Site Plan and Special Use Permit

Location: 778 Sopris Avenue

Applicant: John Williams

John stated that the applicant had proposed to renovate an existing detached accessory structure into an accessory dwelling unit.

John said that during the review of the application, Staff made a determination that the application was not in conformance with the UDC and informed the applicant that a detached ADU was not allowed in the OTR unless the principle structure was of historical significance. After meeting with the Applicant, Staff offered to issue an interpretation of the code section as provided by the UDC and then the applicant may appeal the interpretation to the Board of Adjustment as also provided by the UDC.

John explained that during this process this application will be tabled until the interpretation and appeal is finalized.

John stated that no Planning Commission action is needed.

Michael asked if we needed to have a public hearing.

Janet said that we had met last week with a different applicant in the OTR that wanted to do a detached ADU. She said that she told them that they are not allowed to do a detached ADU in the OTR zone district. She said that the OTR zone district was created in 2008. She said that she will be researching in order to make sure she interpreted it correctly and she will put together the background with history and supporting documents. She said they will have the option to appeal.

Janet said that we will go back to 2008 to check precedent, which will take some work. She said that we apologize to the applicants and to all of you.

Michael asked John Williams if he understood everything and if he was satisfied with his recourse with the Board of Adjustment.

John Williams said yes.

Marina asked what the role of the P&Z was in moving forward. She asked if we needed to adjust any wording in the UDC.

Janet said yes because the way she looks at it is it is not that clear as it talks about language below and there are two belows. She said that it depends on what below you pick, whether or not a detached ADU is permitted or not. She said that we need to look at amending that and cleaning it up because she could see how it is not clear.

Marina asked if we would be involved in the discussion.

Janet answered yes.

Michael said that in terms of the applicant's resource the Board of Adjustment is going to hear the case and determine whether you interpreted the code correctly or not. He said that if you did not interpret the code correctly then they will presumably they will be back.

John Leybourne stated that they could come back with a new public hearing and new noticing.

Marina asked if that Board of Adjustment would be different than what was recently the Board of Adjustment.

Janet answered yes, she said that because this is zoning-wide, it will not be specific to their site so there won't be conflicts of interest that we ran into with the last BOA.

John Leybourne said that it applies to the entire OTR zone district not one specific application or site.

Janet said that she can see how it happened and she'll be curious to dig through it.

BLM Land Transfer Discussion

Janet said that this is not a county referral. She said that this 257 acre parcel was up for auction by the BLM in the past months. She said that an article in the Glenwood Post came up last week that there is going to be a transfer from the BLM to the Colorado Land Trust. She said that she went to the BLM website and found the press releases and, some other articles and because she wasn't sure if it were something we should look at, to go ahead and put it on the agenda to let people know that it was happening. She said that there was only a twenty one day comment period. She said that historically this goes back to a law from the 1800's when the States were formed. She said that the Federal Government was deeding a very certain prescribed amount of land to the States for use for schools and prisons. She said that when it came to Colorado a lot of the lands were in Indian Reservations and so there wasn't enough land to give the State that quantified amount so this has been on the books for over one hundred and fifty years.

Janet said that she talked to Fred Jarmon today from Garfield County because he brought it before the County Commissioners last Monday and he will be bringing it back again. She said that John Martin has been aware of this and has been lobbying the Federal Government to get the deficit made up and to get the lands transferred. She said that overall it seems pretty benign. She said the only question about the State Land Board is that their interest is funding for schools. She said that they can take the leases for grazing and take the revenue from the leases and that she has heard of the State Board selling land if it is a developable area for construction. She questioned that if the State sold the land to a private developer, what would happen.

Janet said that the BLM identifies nine issues to be considered;

- Impacts on rights of way
- Livestock grazing
- Impacts to cultural and historic properties
- Wildlife habitat
- Public access
- Hunting
- Recreation
- Socioeconomics

Janet said that we don't need to submit comments but if we did and this property were to be sold in the future we would want sensitivity on ridgeline development. She said that if people were to use Thompson Creek Road to access a development up there, her guess is this land land-locked but who knows what might happen. She said what if an adjoining property owner allows an easement, worst case scenario.

Ken said that a piece of it fronts County Road 109, the lower portion or eastern edge at the bottom of the ridge.

Michael asked if anyone read the Sopris Sun article today. He said as he understands it is that the revenue that would come would go into the State Land Trust and the proceeds from grazing leases or mineral leases would be used to pay for schools and prisons and all of the things that this is going to do. He said that it sounds like that all of the real stake holders that have been involved with this from the beginning have been engaged from the beginning and have had a lot of their issues addressed. He said that he is not sure that the Town is a stake holder, but he continued that the Town certainly would be a stake holder if the State decided to sell it for development. He said that if we were going to say something it might be; The Town would like to be considered as a stake holder if it went to another transaction past BLM, to the State Land Trust. He said that the uses under the State Land Trust are more restrictive than the uses that would be allowed if it remained BLM land. He said that with BLM land everything goes and everything is an allowable use as long as you pay your permit.

Ken said that if it's Federal land the local jurisdiction, the County in this case, the land use authority does not have jurisdiction over it correct. He said that if it is State sometimes local jurisdictions do and sometimes they don't. He asked in this case does Garfield County zoning have any say over the future use of this land?

Janet said that would be a question for Fred Jarmon, she said that he was still digging through it.

Ken said what concerns him is whether there are any minerals in that bluff or gravel, we wouldn't want to see it move from the current controversy and move close to Carbondale. He said that he didn't know if we have a voice in it verses the County.

Michael said that he didn't know what sort of minerals are up there either, the gravel pits are normally on the river bed not on a bluff.

Further discussion ensued about the land transfer.

Janet said that there will be a hearing in January around the 21st, maybe putting a letter in that we are aware of it and if there is another transaction during the public hearing with the Colorado State Land Board that we would like to be considered as a stake holder.

Marina said that we would definitely want to be a stake holder.

Nick said that it looks like over half of this land is not developable because it is on a very steep slope.

Michael said that we do not want to be a stake holder in this transaction but instead in any future transaction beyond this one.

Further discussion ensued.

Pam Zentmyer said her concern is whether the State Land Board had resources in the area to manage the land properly.

Janet said for now we could do a letter and she would keep doing research on it. She said that she could state that we noted that this transfer was taking place and we wanted to take the opportunity to express some thoughts and future requests if this moves forward and pull in the questions that Pam Zentmyer suggested on the management of the land. She said that she would continue doing research and that she wanted to get it on the radar screen because it seemed like it happened so fast and the comment period was so short. She said that was enough direction for her and she thanked the Commission.

Staff Update

Janet said that she went to the Board meeting on Tuesday night and 1201 Colorado Avenue, Sopris Lofts, came with their team. She said that the Board did drill deep into a few things regarding ADA and landscaping but overall they really liked the application. She said that they liked the building design and the program and that they questioned energy efficiency. She said that the applicant's said that they were going to apply for the Udall grant. She said that it was approved and we will see what happens next with that.

John said next week at the Board meeting they will be looking at the number of animals allowed on site on your premises. It is not drilled down specifically for the rabbit guy, it's more of a Town-wide thing but that it is this item that is driving it. He said that if anyone wants to go to let us know so it can be noticed that there might be Commissioners there.

Further discussion ensued about rabbits.

John said that Red Hill Lofts, the affordable housing project on Dolores, is going to be submitted in the next few weeks.

John said that he and John Plano attended a meeting with the County Health Department on hemp foods, hemp products, CBD products, licensing and the whole process so we are tag teaming with the State and the County on what's allowed and what's not allowed. He said that we have been seeing a lot more here in town.

Commissioner Comments

There were no Commissioner comments

Motion to Adjourn

A motion was made by Jay to adjourn. Nicholas seconded the motion and the meeting was adjourned at 7:40 p.m.

